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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
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8 THOMAS EDWARD WILSON, )

9 Petitioner, )

10 vs. )

11 RENEE BAKER,<sup>1</sup> *et al.*, )

12 Respondents. )  
13 \_\_\_\_\_/

2:98-cv-01174-GMN-PAL

**ORDER**

14 On September 30, 2005, this court entered an order staying this action to allow petitioner  
15 Wilson to exhaust his state remedies for all his claims. ECF No. 101. On February 4, 2015, Wilson  
16 filed a motion to lift the stay and reopen these proceedings, indicating that his state court proceedings  
17 have been concluded. ECF No. 129. Respondents have filed no response to the motion.

18 Good cause appearing, the court shall reopen proceedings in this matter. In addition, the  
19 court shall establish a schedule for further litigation of this action.

20 **IT IS THEREFORE ORDERED** that petitioner's motion to reopen proceedings (ECF No.  
21 129) is **GRANTED**. The clerk shall administratively **REOPEN this action**. The **STAY** of this  
22 action is **LIFTED**.

23 **IT IS FURTHER ORDERED** that the following schedule shall govern the further litigation  
24 of this action:

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26 <sup>1</sup> Renee Baker is substituted for her predecessor, E.K. McDaniel, as Warden of Ely State Prison.  
Fed. R. Civ. P. 25(d).

1           **1. Amended Petition.** If necessary, petitioner shall file and serve a third amended  
2 petition for writ of habeas corpus within **60 days after entry of this order**. The third amended  
3 petition shall specifically state whether each ground for relief has been exhausted in state court; for  
4 each claim that has been exhausted in state court, the third amended petition shall state how, when,  
5 and where that occurred. If petitioner determines that a third amended petition need not be filed,  
6 then, within 60 days after entry of this order, petitioner shall file and serve a statement to that effect.

7           **2. Response to Petition.** Respondents shall have **60 days** following service of the third  
8 amended petition to file and serve an answer or other response to the third amended petition. If  
9 petitioner does not file a third amended petition, respondents shall have **60 days** following the  
10 due-date for the third amended petition to file and serve an answer or other response to petitioner's  
11 second amended petition.

12           **3. Reply and Response to Reply.** Petitioner shall have **45 days** following service of an  
13 answer by respondents to file and serve a reply. Respondents shall thereafter have **30 days** following  
14 service of a reply to file and serve a response to the reply.

15           **4. Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner  
16 shall have **30 days** following service of the motion to file and serve an opposition to the  
17 motion. Respondents shall thereafter have **30 days** following service of the opposition to  
18 the motion to file and serve a reply.

19           **5. Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing, petitioner  
20 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, his  
21 reply to respondents' answer or his opposition to respondents' motion to dismiss. The motion for an  
22 evidentiary hearing must specifically address why an evidentiary hearing is required, and must meet  
23 the applicable requirements of 28 U.S.C. § 2254(e). The motion must identify whether an  
24 evidentiary hearing was held in state court, and, if so, state where the transcript is located in the  
25 record. If petitioner files a motion for an evidentiary hearing, respondents shall file and serve a  
26 response to that motion concurrently with, but separate from, their response to petitioner's reply or

1 their reply in support of a motion to dismiss. Petitioner shall thereafter have **20 days**, following  
2 service of respondents' response to the motion for an evidentiary hearing, to file and serve a reply in  
3 support of that motion.

4 **DATED** this 23rd day of March, 2015.

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9 Gloria M. Navarro, Chief Judge  
10 United States District Court  
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